

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	
)	Criminal No. 09 CR 10054 MLW
HUMZA ZAMAN,)	
)	
Defendant.)	

**MOTION BY UNITED STATES FOR AUTHORIZATION TO USE
ALTERNATIVE NOTICE PROCEDURES FOR VICTIMS**

The United States of America, by and through its undersigned attorney, respectfully requests authorization to use alternative notice procedures for the large number of actual and potential victims in the instant case.

The Justice for All Act of 2004 (“the Act”), codified at 18 U.S.C. § 3771, was signed into law on October 30, 2004. The Act provides certain rights to victims in federal criminal proceedings. Among these rights are the right to “reasonable, accurate, and timely notice” of public court proceedings. 18 U.S.C. § 3771(a). The Act defines a crime victim as “a person directly and proximately harmed as a result of the commission of a Federal offense ...” 18 U.S.C. § 3771(e). Importantly, the Act recognizes that for crimes involving multiple victims, the Court has discretion to adopt procedures that will not unduly interfere with the criminal proceedings. Thus, 18 U.S.C. § 3771(d)(2) provides:

[i]n a case where the Court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the Court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

The defendant has been charged with participating in a conspiracy to unlawfully gain access to corporate computer networks; download from those networks customers' credit and debit card information; fraudulently use the credit and debit card information to obtain cash advances and sell the information to others for fraudulent use; and, lastly, to launder the proceeds and transport, transmit and transfer those proceeds by hand and by mail to New York and Miami. The evidence establishes that Zaman was active in the last stage of the conspiracy – moving cash proceeds from San Francisco and New York to New York and Miami. In addition, he transmitted ATM logs of an international bank with which he was then employed as a programmer to see whether and of what value they could be to the conspirators.

There are four broad classes of victims in the present case. First, there are those corporations whose computer networks were compromised by the defendant's co-conspirators. Eight are identified in the Information filed in this case and the Indictment returned United States v. Gonzalez, Criminal No. 08-10223-PBS, while the conspirators sought to compromise numerous others as well, with varying degrees of success. Second, as charges were made to debit and credit cards stolen from these businesses, the financial loss was primarily passed through to, and borne by, hundreds of issuing banks. Over 40 million payment and debit cards were stolen during the course of the conspiracy. Third, in some instances, individuals whose payment cards were stolen and fraudulently used suffered financial or other harm that was not, or could not be, passed through to the bank that issued their credit/debit cards. Fourth, there is the international bank, whose ATM logs Zaman transmitted to a co-conspirator to see if they could be of any use.

The government does not seek a complete waiver of the notice provision of the Act.

Rather, the United States proposes that the Court authorize that notification be made to victims in the following manner:

- a. Department of Justice Victim Notification System: The government has began utilizing and will continue to utilize that Victim Notification System (VNS) to notify the currently identified international bank, eight corporate victims and one potential victim, an insurance company which represent several credit unions which may have been affected by this crime. The VNS enables the government to inform victims entered in the system of scheduled court dates and significant court event outcomes.
- b. Toll Free Telephone Number: The government has established and will continue to operate a toll free phone number to the U.S. Attorney's Office (1-888-221-6023) that potential victims may call to listen to a recorded message providing the case status, and instructions on how to contact the U.S. Attorney's Office by email. The information is also included on the U.S. Attorney's Office website.
- c. Email Account: If someone believes they were a victim of this crime, they may email specific information about the harm incurred as a result of this crime to the U.S. Attorney's Office District of Massachusetts at usama.idtheft@usdoj.gov.
- d. Website: The government has placed links on its website (www.usdoj.gov/usao/ma) to provide public information regarding this case, and provide resources for victims of identify theft.

In this case, the number of crime victims is extraordinarily large, and as noted above, it is impracticable to identify and provide reasonable, accurate, timely, and individualized notice to

all of them. The procedure described above is a reasonable one that will give effect to the Act without unduly complicating or prolonging the proceedings. Parallel motions have been granted by Judge Woodlock and Judge Gertner, before whom cases are pending against Zaman's co-conspirators, Christopher Scott and Stephen Watt, in Criminal Matter Numbers 08 CR 10224 and 08 CR 10318.¹

WHEREFORE, the United States respectfully requests that the Court authorize the government to enact the proposed plan for notifying victims of this crime, and that the Court find that the proposed plan is a reasonable procedure to satisfy the government's obligations under 18 U.S.C. § 3771.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Stephen P. Heymann
STEPHEN P. HEYMANN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent by first class mail to Patrick Brackley, counsel for defendant Humza Zaman.

/s/ Stephen P. Heymann
STEPHEN P. HEYMANN
Assistant United States Attorney

Date: March 6, 2009

¹ Parallel motions are pending with respect to cases initiated against co-conspirators Albert Gonzalez and Damon Patrick Toey in Criminal Matter Numbers 08 CR 10223 and 08 CR 10225.